



MEETING DATE: 09-18-2006

AGENDA ITEM:

14

COUNCIL AGENDA REPORT

DATE: AUGUST 30, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *OK*

SUBJECT: INTRODUCE ORDINANCE AMENDING TOWN CODE, CHAPTER 2, ARTICLE V, SECTION 2.50.131 CONCERNING INFORMAL BID PROCEDURES ON PUBLIC WORKS, AND AMENDING TOWN CODE, CHAPTER 2, ARTICLE V, SECTION 2.50.140 CONCERNING NOTICE OF FORMAL BID PROCEDURE ON PUBLIC WORKS.

RECOMMENDATION:

- a. Direct the Clerk Administrator to read the title.
- b. Waive the reading.
- c. Introduce the ordinance and instruct the Clerk Administrator to publish a summary no less than five days prior to adoption.

BACKGROUND:

Informal Bidding Procedure

State law (Public Contracts Code §20162) requires that all contracts for public works projects valued in excess of \$5,000 must be awarded to the low bidder in a competitive bidding process. However, the Uniform Public Construction Cost Accounting procedures (Public Contracts Code §22030, *et seq.*) provide an alternate process for awarding public works contracts. This allows the use of informal bidding as a means of reducing the process, and the associated time and expense associated with the award of small public works contracts.

The alternative process, at the time of adoption by the Town (Town Code §2.50.130 *et seq.*) allowed the use of informal bidding procedures to award contracts for projects valued up to \$75,000. The maximum amount has since been increased to \$100,000. Town Code §2.50.130 *et seq.* has not been amended to reflect this increase.

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\Report Bidding Ord Amend.wpd]

Reviewed by: *[Signature]* Town Manager *PSJ* Assistant Town Manager _____ Clerk
Finance _____ Community Development _____

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Formal Bidding Procedure

State law (Public Contract Code §20164) also requires that a city must publish a notice of intent to accept formal competitive bids for public works projects a minimum of two times in a newspaper of general circulation. Contrary to State law, Town Code §2.50.140(2) incorrectly states that the notice be published a minimum of one time.

DISCUSSION:

Amending Town Code §§2.50.131 will allow staff to employ informal bidding procedures for contracts valued up to \$100,000, thus saving the Town time and money in the competitive bidding process for small public works projects. Amending Town Code §2.50.140(2) will correct an error in the Code by insuring that notices of intent to accept formal bids for public projects are published at least twice in conformance with State law.

Attachments: Proposed Ordinance

ORDINANCE _____

**ORDINANCE OF THE TOWN OF LOS GATOS
AMENDING DIVISION 2 OF ARTICLE V. OF CHAPTER 2 OF THE LOS GATOS TOWN
CODE REGARDING COMPETITIVE BIDDING FOR PUBLIC WORKS PROJECTS**

WHEREAS, California Public Contracts Code §20162 mandates formal procedures for the competitive bidding of all contracts for “public projects,” as defined therein, that exceed \$5,000 in value; and

WHEREAS, Public Contracts Code §22032(b) allows for competitive bidding by city using informal procedures for certain public projects so long as the city has adopted the provisions of the California Uniform Construction Cost Accounting Commission; and

WHEREAS, through the adoption of Los Gatos Town Code §2.50.130 *et seq.*, the Town adopted the provisions of the California Uniform Construction Cost Accounting Commission for public projects costing seventy-five thousand dollars (\$75,000) or less to be bid on using an informal procedure; and

WHEREAS, Public Contracts Code §22032(b) has recently been amended to increase the maximum value of a public project qualified for informal bidding procedures from seventy-five thousand dollars (\$75,000) to one hundred thousand dollars (\$100,000); and

WHEREAS, amending Town Code §2.50.131 to raise the maximum value of a public project in the Town qualified for informal bidding to one hundred thousand dollars (\$100,000) would allow a faster and more efficient process for contracting relatively small public projects; and

WHEREAS, California Public Contract Code §20164 requires that a notice soliciting competitive bids in a formal bid process must be published at least twice and not less than five (5) days apart; and

WHEREAS, Town Code §2.50.140(2) is inconsistent with the general law because it incorrectly requires that notice inviting bids for public works projects be published at least one time.

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THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS AS FOLLOWS:

SECTION I.

A. Town Code §2.50.131 is amended to read as follows:

Informal bid procedures.

A public project, as defined by the Act, of more than twenty-five thousand dollars (\$25,000.00) and not more than ~~seventy-five thousand dollars (\$75,000)~~ *one hundred thousand dollars (\$100,000.00)* may be let to contract by informal procedures as set forth in Section 22032 et seq., of the Public Contract Code.

B. Town Code §2.50.140(2) is amended to read as follows:

Publication of Notice.

Notice inviting bids shall be published by the Town Clerk at least ten (10) days before the date of opening of the bids. Notice shall be published at least ~~once~~ *twice* in a newspaper of general circulation, printed and published in the Town, or if there is none, it shall be posted in at least three (3) public places in the Town. *Notices shall conform to the requirements of Public Contract Code §20164.*

SECTION II.

This Ordinance takes effect 30 days after the date it is adopted.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on September ____, 2006, and adopted by the following vote as an Ordinance of the Town of Los Gatos at a regular meeting of the Town Council on September ____, 2006.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA